



**Department of  
Transportation**

**ANDREW M. CUOMO**  
Governor

**MATTHEW J. DRISCOLL**  
Commissioner

**DARRELL F. KAMINSKI, P.E.**  
Regional Director

March 15, 2016

County of Erie  
Attention: Mutasem Salah  
Dept. of Env. and Plann. Division of Sewerage Management, Room 1034  
Buffalo, NY 14202

RE: **PIN 5134.37.201 Proc. 14382**  
Lake Shore - Lackawanna City, SH 5019  
Town of Hamburg, Erie County  
Map 111(FEE); 112(TE); Parcel 143; 144

Dear Mr. Salah:

The Department is progressing the above captioned project to acquire property for the purpose of correcting safety deficiencies, reduce the accident rate and accident severity and we are now able to extend an offer of just compensation to you for your property as described in the attached maps. Our offer, based on the amount of our highest approved appraisal, is **\$23,900.00 (Twenty Three Thousand Nine Hundred and 00/100 Dollars)**.

To assist you with your review of our offer, please find the following documents:

- 1) **EXPLANATION OF ACQUISITION & OFFER OF SETTLEMENT**
- 2) **HOW PROPERTY IS ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION**
- 3) **ACQUISITIONS FACT SHEET**

4) **AGREEMENTS:** By law, there are two options to which you are entitled. You may collect your compensation either as a full settlement, or as an advance payment. Either of these options can be exercised by signing and returning three copies provided of either one of the following:

**"Agreement of Adjustment and Release of Owner"** This agreement settles the acquisition for the offer amount, plus applicable interest and waives your right to file a claim in the Court of Claims. This agreement will be furnished upon request.

**"Agreement for Advance Payment"** This agreement allows you to collect the amount stated, plus interest, and negotiate for additional compensation, if warranted and justified. This agreement provides you with the ultimate right to file a claim with the Court of Claims, within a three year statute of limitations from the date we officially notify you of the vesting of the map(s).

5) **APPROPRIATION MAP** This map became official upon filing with the Department of Transportation and allows the State's officers or agents right of entry on the property. Title in the property under eminent domain will transfer to the State upon vesting with the County Clerk's Office and you will be notified of this filing by certified mail.

100 Seneca Street, Buffalo, New York 14203 | [www.dot.ny.gov](http://www.dot.ny.gov)

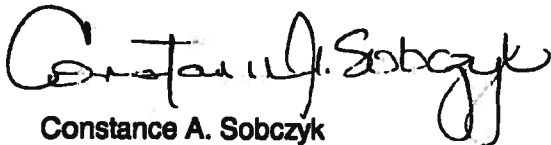
Item  
5(c)

Please be advised that before we can make payment of compensation to you the following steps must be completed:

- The map(s) must be filed by the New York State DOT in the public record within the respective County Clerk's Office.
- A signed agreement must be received from you by this office and then processed for approval.
- All closing documents required by the Real Property Bureau of the NY State Attorneys General Office must be completed and returned to us. These will be provided to you when we receive a signed agreement

I will telephone you in the near future to confirm that you have received this package, as well as discuss the materials enclosed and provide you with answers to any questions you may have. In the meantime, should you wish to contact me, I can be reached at 716-847-7199 or by e-mail at [Constance.Sobczyk@dot.ny.gov](mailto:Constance.Sobczyk@dot.ny.gov). Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Constance A. Sobczyk". The signature is fluid and cursive, with the first name "Constance" written in a larger, more prominent script than the last name "Sobczyk".

Constance A. Sobczyk  
Real Estate Specialist I

Enclosures

cc: Acquisitions Management Bureau, POD 41

NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
OFFICE OF RIGHT OF WAY  
REGION 5

**EXPLANATION OF ACQUISITION/OFFER OF SETTLEMENT**

**PIN:** 513437201

**SH 5019**

**COUNTY:** Erie

**MAP(S):** 111; 112

**CLAIMANT(S):** County of Erie

**PROC#:** 14382

**PROJECT:** Lake Shore - Lackawanna City, SH 5019

**TOWN/CITY:** Hamburg

**PARCEL(S):** 143; 144

**DECL:**0996

**VILLAGE:**

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**EXPLANATION OF ACQUISITION**

The Temporary Easement is needed for work area. It is irregular in shape and completely surrounds the Fee appropriation. It is 175'+/- at it's widest point and 80'+/- on either side meeting Hoover Road for a total of 6,372 sf+/-.

The Fee appropriation is shaped as one half of an octogan. It measure 145'+/- along Hoover Road for a total of 7,659 sf +/- . Compensation is for land (\$17,625), land improvements (driveway, lawn, \$3,300) and for the TE area (\$2,950)

**OFFER OF SETTLEMENT**

1. Direct Damages	\$20,925.00
2. Indirect Damages	
3. Cost To Cure	
4. Rental Value - Temporary Occupancy	
5. Rental Value - Temporary Easement	\$2,950.00

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<b>Total Damages - Just Compensation</b>	<b>\$23,875.00</b>
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The above value represents the amount of our highest approved appraisal, developed in accordance with appraisal standards as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). If you are satisfied with our explanation of the acquisition and accept the offer as fair and reasonable, please choose the agreement option you prefer, sign and return both copies in the self-addressed envelope provided. Once we receive your signed agreement and closing papers have been completed and processed, payment can be made to you.

Please note that, in making this offer and any subsequent payment, the Commissioner of Transportation and the State of New York reserve certain rights, as explained in this paragraph. If, in the course of the construction of this project or the use or occupation of the property by the State or its authorized agents, it is discovered that hazardous or contaminated materials are present on any portion of the property in which the State is acquiring an interest, and such condition requires remediation by the Department of Transportation and/or some other State agency, the Commissioner and the State shall have the right to assert any claim, fine or penalty authorized by law against you or any other person or entity who owned, occupied or used the property, or caused such contamination, prior to the State's acquisition. This includes the right to assert a claim against any payment made pursuant to either of the enclosed Agreements or any subsequent payment, including any court award or settlement.



## NEW YORK STATE DEPARTMENT OF TRANSPORTATION

### *HOW PROPERTY IS ACQUIRED IN NEW YORK STATE*

The acquisition of property required for a public improvement occurs only after an extensive, coordinated process that includes careful planning, engineering and design. This leads to a determination of property that is needed to construct a public improvement. You may have attended one or more of the public hearings as part of the overall process.

When it is necessary for the Department to acquire private property, a detailed map is prepared to illustrate the extent of right of way needed from each property. Concurrently, a title search is conducted to determine the ownership interests in the property along with any liens and encumbrances. Title to the property is transferred to the State when the map is filed with the County Clerk's Office in the county in which the property is located. ***Before any transfer of title takes place, the law requires the State make an offer in writing for Just Compensation, which is based on the amount of the State's highest approved appraisal.***

An appraisal is prepared either by Department or Consultant Appraisers, each of whom have had extensive experience in the valuation of real estate as well as having received special training in valuing property affected by eminent domain proceedings. You will be offered the opportunity to accompany the appraiser during the inspection of your property. In completing the appraisal, the Appraiser will analyze market conditions and prices at which properties similar to yours are sold. With your offer, you will receive a summary statement explaining the Just Compensation established and the basis for the valuation. If we are unable to arrive at an agreement in full settlement of your claim, you will have the option to collect an advance payment of the Just Compensation offered and continue negotiations. Agreeing to accept an advance payment affords you the time and opportunity to present additional information for consideration which you may feel has a bearing on the appraised value. Ultimately, you have the right to file a claim with the State Court of Claims if a full settlement cannot be reached. The Department representative assigned to your claim will explain the options for agreements and methods of payment at the time the offer is extended.

Occasionally, a claimant may refuse or fail to accept the State's offer, and the Map is still filed. In that case, if federal money is in any phase of the project, the amount offered will be deposited in a variable rate interest bearing account. Depositing the amount of the State's offer is considered to be the legal equivalent of payment to you and allows the State's Contractor to enter upon your property for construction even though you have not signed an agreement. To withdraw the amount deposited, a claimant must either sign an Agreement or formally request of the Court of Claims a distribution of the funds held in the interest bearing account. If there is no federal money in any phase of the project, the amount offered will not be deposited, but will accrue interest from the date the map is filed in accordance with State Law. In this situation, the filing of the map will allow the State's Contractor to enter upon your property for construction even though you have not signed an agreement.

Our acquisition process is not a routine real estate transaction, nor one which most people will experience. We expect you will have concerns and questions and we want to reassure you that our trained, professional staff will make themselves available to discuss the variety of issues that arise and assist you *throughout*.

***The Office of Right of Way at the Department of Transportation***

# NEW YORK STATE DEPARTMENT OF TRANSPORTATION

## ACQUISITION FACT SHEET

Our acquisition process is not the routine real estate transaction to which most people are accustomed and it is anticipated there will be many questions. This fact sheet is provided to identify the many terms which you will encounter throughout our correspondence and documents related to any acquisition. Please feel free to direct any questions you may have to the Department Representative who is assisting you with your claim.

### EMINENT DOMAIN

Eminent domain is a governmental right to acquire private property for public use by condemnation and is one of the oldest exercises of government power dating back to common law. The founding fathers placed a high value on the protection of private property adding the Fifth and Fourteenth Amendments to the US Constitution. The Fifth Amendment insures due process and that JUST COMPENSATION be paid stating that "no person shall be ... deprived of ... property, without due process of law; nor shall private property be taken for public use, without just compensation." The use of EMINENT DOMAIN is often necessary for the good of the general public and any acquisition is carefully designed and planned to maximize the benefits of the public improvement project and minimize the effects on the property owners.

### APPROPRIATION

Appropriation is the legal means by which New York State exercises eminent domain (as opposed to local public agencies which acquire property by condemnation)

### ACQUISITION

The act of acquiring property either by condemnation or appropriation; Often this term is used as a noun, stated as "The Acquisition," and applies to the property taken, whether the entire property or just a portion.

### TYPES OF ACQUISITION

There are two types of acquisitions: a FULL ACQUISITION where the entire property is acquired and a PARTIAL ACQUISITION where a portion of the property is acquired and there is a remainder property left in private ownership.

### JUST COMPENSATION

The value of the property taken and for all property rights lost or acquired. This is determined through appraisal of the Fair Market Value of the property, before the acquisition and after, with the difference resulting in TOTAL DAMAGES to the property.

### TYPES OF DAMAGES

DIRECT DAMAGES - The appraised value of the physical portion of property actually acquired. INDIRECT DAMAGES - The loss of value, if any, to the property remaining after the acquisition.

### FEE SIMPLE ESTATE

Labeled as FEE on the Appropriation Map. Fee Simple Estate is the greatest interest one can have in real property. When the State acquires in FEE, it is a total acquisition of real property, unqualified and of indefinite duration. When an acquisition encompasses only a portion of the entire property, the remainder retains rights to access as before unless specified otherwise. Rights are transferred by filing a map in the County Clerk's office, also referred to as VESTING.

### PERMANENT EASEMENT

Labeled as PE on the Appropriation Map. When the State acquires a Permanent Easement, it is an acquisition of a limited, specific right in real property and of indefinite duration. An example of a Permanent Easement is for highway drainage. In some instances, it is possible for the landowner to use the easement area for other purposes if the State's interest is not affected. Rights are transferred by filing a map in the County Clerk's office.

### TEMPORARY EASEMENT

Labeled as TE on the Appropriation Map. A Temporary Easement is an acquisition of a limited, specific use of real property for a defined time period. An example of an easement of this type is for grading or as a work area during construction. In some instances, it is possible for the landowner to use the easement area for other purposes if the State's interest is not affected. The defined rights are transferred by filing a map in the County Clerk's Office and is terminated upon the completion of the project.

**TEMPORARY OCCUPANCY**

Commonly abbreviated as TO. This is a short-term rental of land by the State, usually for the length of a construction contract. If an agreement for a Temporary Occupancy can be reached, no vested rights in the property will be acquired; if no agreement is reached, the State may convert the temporary occupancy into a Temporary Easement which would require our filing a map in the County Clerk's office.

**VESTING OF TITLE**

Vesting is synonymous with Filing in the County Clerk's office and the terms are commonly used interchangeably. This is the process whereby the Department files a map and description of the property to be acquired in the respective County Clerk's office. When this map is filed, or title vested, property interests as defined in the Map transfer to the State of New York on that date.

**TYPES OF AGREEMENTS**

An agreement is a legal instrument that, when signed by you and upon completion of the closing papers, allows the state to pay you for the acquired property. There are several types of Agreements:

**AGREEMENT FOR ADVANCE PAYMENT**

Allows the Department to pay you the full amount of our offer and reserves to you the right to negotiate additional compensation, or ultimately commence a lawsuit if agreement cannot be reached.

**AGREEMENT OF ADJUSTMENT and RELEASE OF OWNER**

Completely settles the matter of our acquisition for the full amount offered plus interest.

**TEMPORARY OCCUPANCY AGREEMENT**

Allows the Department to pay you for the short term temporary occupancy of your property.

**CLOSING PAPERS**

Closing papers are legal documents prepared by the Real Property Bureau of the New York State Attorney General's Office. These must be completed before payment can be made for the acquisition of property. Should you have any questions or require assistance with the closing papers when you receive them, please contact the Real Estate Specialist assigned to your claim.

**INTEREST**

The Department pays interest at a rate set by State statute. It is variable and begins at vesting, generally. Interest payment applies to all agreements signed, except Temporary Occupancy Agreements. It is advised that you sign and return documents timely, as interest may be terminated 90 days following the date of our vesting, and resume when you sign and return your agreement within that time. Interest will also be paid when money has been deposited on your behalf. A full explanation of the terms of payment of interest can be found attached to your agreements when you receive them.

**SERVICE OF MAP AND NOTICE OF APPROPRIATION**

This is the legal process where a Department representative serves a property owner by Certified Mail, or in Person, the official "Notice of Appropriation" together with a print of the official Appropriation Map that have been filed in the County Clerk's office. This service is an official notice of our acquisition and also begins a 3-year Statute of Limitations to file a claim in the Court of Claims when you have chosen to execute the Agreement for Advance Payment. Should no claim be filed within three years from the date of service, your right to file said claim in the Court of Claims expires.

NEW YORK STATE  
DEPARTMENT OF TRANSPORTATION  
ACQUISITION MAP  
PIN 513437

LAKE SHORE - LACKAWANNA CITY  
S.H. 5019

MAP NO. 111  
PARCEL NO. 143  
SHEET 1 OF 2 SHEETS

MAP REFERENCE INFORMATION:  
LOT 10 TOWN 10 RANGE 8  
HOLLAND LAND COMPANY'S SURVEY

Parcel Locator Points:  
N: 1014581.0224  
E: 1076962.4551  
N.Y.S.P.C.S. WEST ZONE:  
NAD 83 (2011) EPOCH 2010

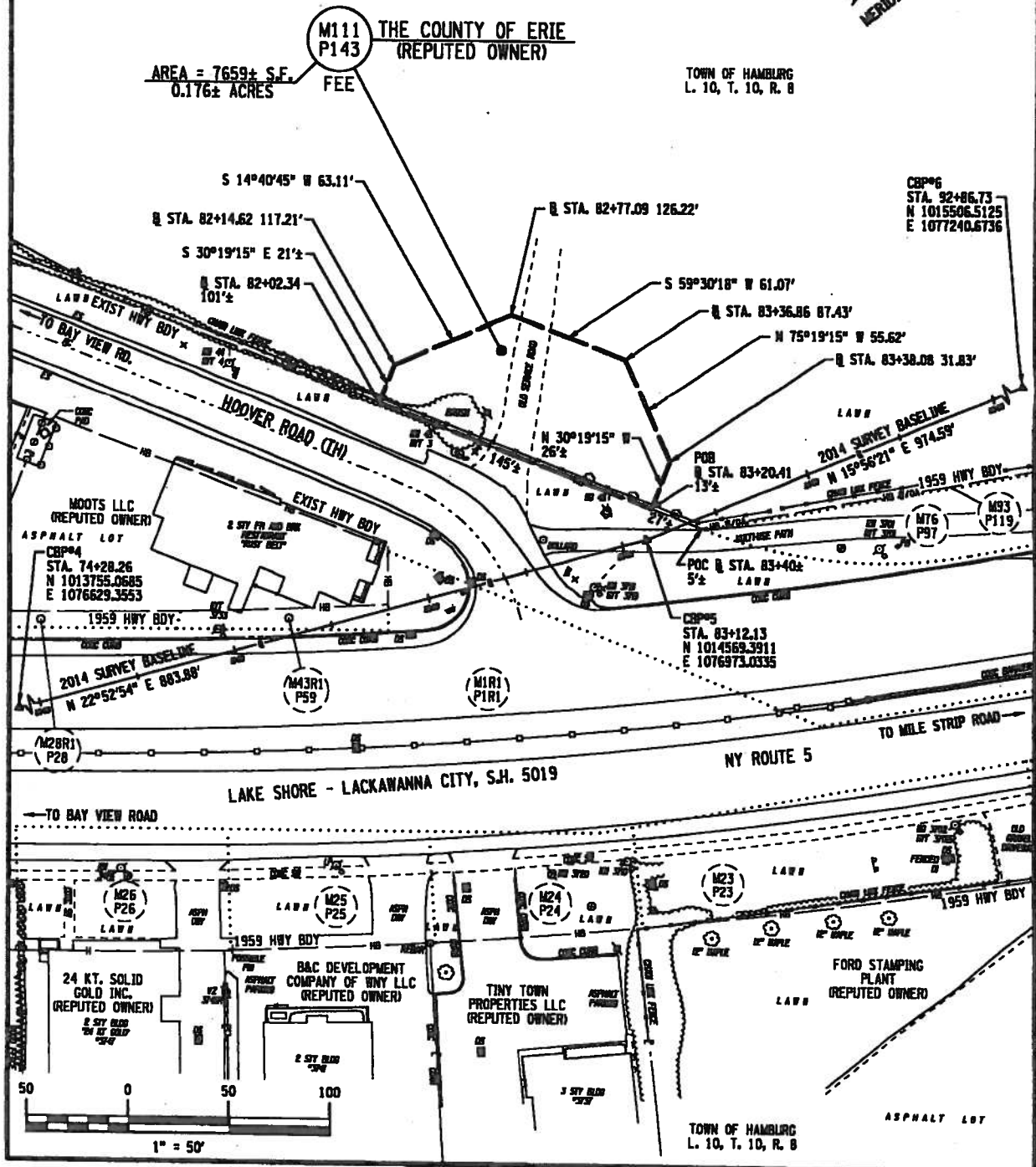
THE COUNTY OF ERIE  
(REPUTED OWNER)

CCD L 8445 P 173

-TRN 5

PARCEL SUMMARY:  
Type: FEE  
Portion of 2014 Tax  
Map Ref. No. 159.00-1-24

Town of Hamburg  
County of Erie  
State of New York



PREPARED BY S. HANCOCK

CHECKED BY S. HANCOCK

FINAL CHECK BY S. HANCOCK

NEW YORK STATE  
DEPARTMENT OF TRANSPORTATION  
ACQUISITION MAP  
PIN 5134.37

LAKE SHORE - LACKAWANNA CITY  
S.H. 5019

MAP NO. 112  
PARCEL NO. 144  
SHEET 1 OF 2 SHEETS

MAP REFERENCE INFORMATION:  
LOT 10 TOWN 10 RANGE 8  
HOLLAND LAND COMPANY'S SURVEY

Parcel Locator Points:  
N: 1014588.6343  
E: 1076975.3802  
N.Y.S.P.C.S. WEST ZONE:  
NAD 83 (2011) EPOCH 2010

THE COUNTY OF ERIE  
(REPUTED OWNER)

CCD L 8445 P 173

TRN 5

PARCEL SUMMARY:

Type: Temporary Easement  
Portion of 2014 Tax  
Map Ref. No. 159.00-1-24

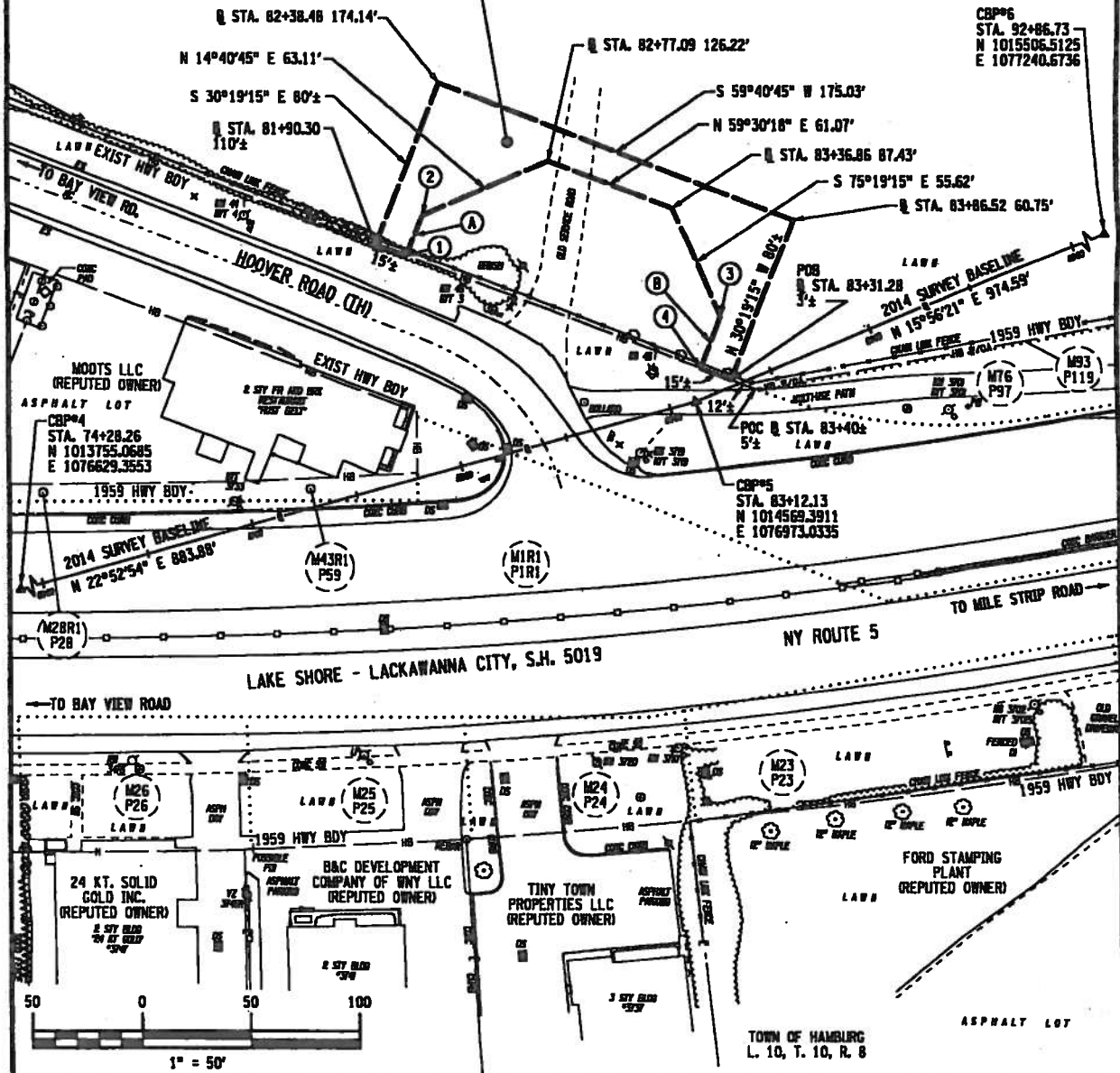
Town of Hamburg  
County of Erie  
State of New York



1	Q STA. 82+02.34 101'±
A	N 30°19'15" W 21'±
2	Q STA. 82+14.62 117.21'
3	Q STA. 83+38.08 31.83'
B	S 30°19'15" E 26'±
4	Q STA. 83+20.41 13'±

M112  
P144 THE COUNTY OF ERIE  
(REPUTED OWNER)  
AREA = 6372± S.F.  
T.E. 0.146± ACRES

TOWN OF HAMBURG  
L. 10, T. 10, R. 8



PREPARED BY R. CASPER

CHECKED BY R. CASPER

FINAL CHECK BY R. CASPER